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10/776,713	02/11/2004	Patrick M. Cox	41698.1113	2804

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New York, NY 10022

EXAMINER

PATEL, HEMANT SHANTILAL

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/776,713

Applicant(s)

COX ET AL.

Examiner

Hemant Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Applicant Response dated June 16, 2005 to an Office Action dated May 23, 2005 is entered. Claims 57-81 are pending in this application.

Double Patenting

2. Claims 57-69 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,456,709 (hereinafter referred to as Parent '709). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims in the continuation are broader than ones in patent Parent '709. In re Van Ornum and Stang, 214 USPQT61, broad claims in continuation application are rejected as obvious double patenting over previously patented narrow claims. For example, claim 57 of instant application recites limitations similar to those in claim 1 of Parent '709, except the claim 57 of instant application does not recite specific limitations of eliciting directory assistance request, searching a database for a destination telephone number that satisfies the directory assistance request, allocating and monitoring the outbound channel using a signal processing device. It also does not recite non-answering condition as specifically a network communication problem as specified in claim 1 of Parent '709. Thus, the claim 57 of instant application is broader than claim 1 in the Parent '709 patent.

3. Claims 70-81 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,456,709

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(hereinafter referred to as Parent '709). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims in the continuation are broader than ones in patent Parent '709. In re Van Ornum and Stang, 214 USPQT61, broad claims in continuation application are rejected as obvious double patenting over previously patented narrow claims. For example, claim 70 of instant application recites limitations similar to those in claim 16 of Parent '709, except the claim 70 of instant application does not recite specific limitations of eliciting directory assistance request, searching a database for a destination telephone number that satisfies the directory assistance request, allocating and monitoring the outbound channel using a signal processing device. Thus, the claim 70 of instant application is broader than claim 16 in the Parent '709 patent.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 57-61, 63, 68, 70-75, 80 are rejected under 35 U.S.C. 102(b) as being anticipated by Dowden (US Patent No. 5,181,237).

Regarding claims 57, 60, Dowden teaches of a method for providing directory assistance services to a caller comprising:

receiving a call from the caller, the call including a directory assistance request (col. 5, ll. 67-col. 6, ll. 41; dialing a call for assistance related to directory number i.e. calling collect, person-to-person, operator, or third number call etc.; also Fig. 3, steps 1550, 1552, 1554);

in response to the directory assistance request, attempting to establish a telephonic connection between the caller and a destination party (col. 6, ll. 42-43);

detecting a connection status signal concerning an establishment of the telephonic connection (col. 8, ll. 48-49; detecting called terminal busy signal);

before automatically transferring the caller to a directory assistance provider, determining whether the connection status signal indicates a non-answering condition (col. 8, ll. 48-49; detecting busy signal); and

automatically transferring the caller to a directory assistance provider, and offering a selected service to the caller when it is determined that the connection status signal indicates a non-answering condition (col. 8, ll. 50-52; automated position offering to set up a VMS call).

Regarding claim 58, Dowden further teaches that the directory assistance provider comprises voice server (col. 5, ll. 60-col. 9, ll. 61; providing voice services).

Regarding claim 59, Dowden further teaches that the directory assistance provider comprises a live operator (Fig. 1, item 24).

Regarding claim 61, Dowden further teaches that the non-answering condition includes a ring-no-answer condition (col. 8, ll. 48-49; timed no-answer).

Regarding claim 63, Dowden further teaches that the selected service includes recording a message to be delivered to the destination party (col. 8, ll. 32-col. 9, ll. 68; col. 10, ll. 37-col. 11, ll. 13; voice message).

Regarding claim 68, Dowden further teaches of ISDN D channel and LAN for out-of-band signaling (col. 7, ll. 31-col. 8, ll. 22).

Regarding claims 70, 74, Dowden teaches of a method for providing directory assistance services to a caller comprising:

receiving a call from the caller, the call including a directory assistance request (col. 5, ll. 67-col. 6, ll. 41; dialing a call for assistance related to directory number i.e. calling collect, person-to-person, operator, or third number call etc.; also Fig. 3, steps 1550, 1552, 1554);

in response to the directory assistance request, attempting to establish a telephonic connection between the caller and a destination party (col. 6, ll. 42-43);

detecting a connection status signal concerning an establishment of the telephonic connection (col. 8, ll. 48-49; detecting timed-no-answer);

before automatically transferring the caller to a directory assistance provider, determining whether the connection status signal indicates a ring-no-answer condition (col. 8, ll. 48-49; detecting timed-no-answer); and

automatically transferring the caller to a directory assistance provider, and offering a selected service to the caller when it is determined that the connection status signal indicates a non-answering condition (col. 8, ll. 50-52; automated position offering to set up a VMS call).

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Regarding claim 71, refer to rejections for claim 70 and claim 58.

Regarding claim 72, refer to rejections for claim 70 and claim 59.

Regarding claim 73, Dowden teaches of providing announcement to the caller if the called party does not answer and is transferred to the operator position (col. 8, ll. 48-52).

Regarding claim 75, refer to rejections for claim 74 and claim 63.

Regarding claim 80, refer to rejections for claim 70 and claim 68.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dowden as applied to claim 57 above, and further in view of knowledge well known in the art.

Regarding claim 62, Dowden does not specifically teach of network communication as non-answering condition.

However, it is very well known in the art that network communication failure causes the busy condition indicated by fast busy signal.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dowden to include this network communication failure condition indicated by fast busy signal that causes no answer from the called party in order to provide the caller some alternative useful completion of the call in case of network congestion.

9. Claims 64-67, 76-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowden as applied to claims 57, 74 above, and further in view of Yablon (US Patent No. 5,764,731).

Regarding claim 64, 65, 66, Dowden does not specifically teach of providing destination party telephone number information through caller device.

However, in the same field of endeavor, Yablon teaches of directory assistance providing destination party telephone number in the form of DTMF tones that the caller device can store for later use (col. 6, ll. 5-47).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dowden to provide telephone number of called party in the form of DTMF tones to the caller as taught by Yablon so that "If the number is busy, or the called party is not available, it can be called back at a later time without going

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again through directory assistance, averting one of the problems of call completion” (Yablon, col. 8, ll. 13-17).

Regarding claim 67, Yablon further teaches of the use of pager telephone (col. 19, ll. 41-64).

Regarding claim 76, refer to rejections for claim 74 and claim 64.

Regarding claim 77, refer to rejections for claim 76 and claim 65.

Regarding claim 78, refer to rejections for claim 76 and claim 66.

Regarding claim 79, refer to rejections for claim 78 and claim 67.

10. Claims 69, 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowden as applied to claims 68, 80 above, and further in view of Wattenbarger (US Patent No. 5,835,570).

Regarding claim 69, Dowden does not specifically teach of using common channel signaling system 7.

However, in the same field of endeavor, Wattenbarger teaches of using SS7 out-of-band signaling for directory assistance and call connection set up (col. 4, ll. 37-col. 5, ll. 20).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Dowden to use SS7 out-of-band signaling for directory assistance and call set up as taught by Wattenbarger as the use of industry standard SS7 out-of-band signaling avoids using the dedicated voice channels for the intermittent and bursty traffic of signaling and control messages as is well known in the art.

Regarding claim 81, refer to rejections for claim 80 and claim 69.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent No. 4,932,042	Baral
US patent No. 5,117,451	Ladd
US patent No. 5,163,083	Dowden
US patent No. 5,187,740	Swaim
US patent No. 5,838,779	Fuller
US patent No. 5,867,494	Krishnaswamy
US patent No. 6,185,415	Boatwright
US patent No. 6,731,625	Estep

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant Patel whose telephone number is 571-272-8620. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

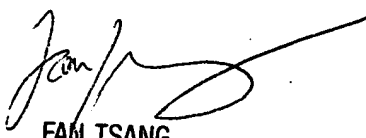
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hemant Patel
Examiner
Art Unit 2614

HSP

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SUPERVISORY PATENT EXAMINER
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